

The Honorable Barbara J. Rothstein

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

WILLIAM T. WHITMAN, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

STATE FARM LIFE INSURANCE
COMPANY, an Illinois corporation,

Defendant.

CASE NO. 3:19-cv-06025-RBL

PLAINTIFF'S MOTION TO SEAL

MOTION FOR LEAVE TO FILE UNDER SEAL

Pursuant to Local Civil Rule 5(g), Plaintiff hereby moves to file under seal certain confidential documents and information subject to the protective order entered in this action (ECF No. 48) that are being filed with Plaintiff's motion for class certification and the declaration of Scott J. Witt in support of the same. In support of his motion, Plaintiff states as follows:

IDENTIFICATION OF DOCUMENTS AND BRIEFING TO BE SEALED

Declaration of Scott J. Witt

1. Certain annual statements for Plaintiff's life insurance policy at issue in this case, attached as Exhibit C to the Declaration and Report of Scott J. Witt;

2. Certain illustrations for Plaintiff's life insurance policy at issue in this case, attached as Exhibit D to the Declaration and Report of Scott J. Witt;

3. The transcript of the November 7, 2017, deposition of Defendant State Farm Life Insurance Company ("State Farm") employee and expert Carl Streily in *Vogt v. State Farm Life Ins. Co.*, 16-4170-CV-C-NKL (W.D. Mo.), attached as Exhibit E to the Declaration and Report of Scott J. Witt;

4. The transcript of the December 8, 2017, deposition of State Farm employee and designated representative Tony Phipps in *Vogt v. State Farm Life Ins. Co.*, 16-4170-CV-C-NKL (W.D. Mo.), attached as Exhibit F to the Declaration and Report of Scott J. Witt;

5. The Form 94030 New Jersey Actuarial Memorandum, attached as Exhibit G to the Declaration and Report of Scott J. Witt;

6. The Form 94030 South Carolina Actuarial Memorandum, attached as Exhibit H to the Declaration and Report of Scott J. Witt;

7. The transcript of the November 30 through December 1, 2017, deposition of State Farm employee and designated representative Jeff Holzbauer in *Vogt v. State Farm Life Ins. Co.*, 16-4170-CV-C-NKL (W.D. Mo.), attached as Exhibit I to the Declaration and Report of Scott J. Witt;

8. An October 4, 2001, internal email produced by State Farm re: "Mortality Assumption Documentation," attached as Exhibit J to the Declaration and Report of Scott J. Witt;

9. A 2001 actuarial memorandum for the repricing of Form 94030 produced by State Farm, attached as Exhibit K to the Declaration and Report of Scott J. Witt;

10. The February 28, 2018, declaration of Jeff Holzbauer in *Vogt v. State Farm Life Ins. Co.*, 16-4170-CV-C-NKL (W.D. Mo.), attached as Exhibit L to the Declaration and Report of Scott J. Witt;

11. The transcript of the November 30, 2017, deposition of State Farm employee and designated representative at trial Alan Hendren in *Vogt v. State Farm Life Ins. Co.*, 16-4170-CV-C-NKL (W.D. Mo.), attached as Exhibit M to the Declaration and Report of Scott J. Witt;

12. Certain reference to State Farm's internal cost of insurance and mortality rates in the Declaration and Report of Scott J. Witt;

Motion for Class Certification

13. Plaintiffs' motion in limine filed as ECF No. 265 in *Vogt v. State Farm Life Ins. Co.*, 16-4170-CV-C-NKL (W.D. Mo.) ("*Vogt*"), attached as Exhibit 1 to Plaintiff's Motion for Class Certification; and,

14. The November 12, 2020, Declaration and Report of Scott J. Witt as served on State Farm in *Bally v. State Farm Life Ins. Co.*, 18-cv-04954-CRB (N.D. Cal.) ("*Bally*"), attached as Exhibit 3 to Plaintiff's Motion for Class Certification.

WHY SEALING IS NECESSARY

The parties have entered a stipulated protective order governing the exchange in discovery of documents deemed confidential (ECF No. 48). Plaintiff seeks to file the documents described above in support of his Motion for Class Certification. Therefore, filing under seal a certain portion of the Declaration and Report of Scott J. Witt (Exhibit 1 thereto), as well as the identified exhibits, is necessary to abide by the Protective Order. No alternatives are adequate because the information, descriptions of information, or documents, are needed to adequately convey Plaintiff's argument, and filing this information publicly would violate this Court's order. The documents referenced in

1 paragraphs 1 and 2 include sensitive personal information of Plaintiff that is subject to the
2 protective order entered in this case. The documents referenced in paragraphs 13 and 14 were filed
3 under seal in the *Vogt* and *Bally*, and so Plaintiff seeks to file them under seal here. Because State
4 Farm designated the remaining documents referenced herein as confidential (and designated as
5 confidential the source material for the internal rates in Mr. Witt's Declaration and Report
6 referenced in paragraph 12 above), it must satisfy Local Civil Rule 5(g)(3)(B) in its response to
7 this motion.

8 **LOCAL CIVIL RULE 5(g)(3)(A) CERTIFICATION**

9 Plaintiff hereby certifies that he has met and conferred through counsel for Defendant in
10 an attempt to reach agreement on the need to file the documents designated confidential by
11 Defendant under seal, to minimize the amount of material filed under seal, and to explore redaction
12 and other alternatives to filing under seal. Specifically, Lindsay Perkins and Joseph Feierabend,
13 counsel for Plaintiff, conferred telephonically with Tiffany Powers and Jeremy Root, counsel for
14 Defendant State Farm, on February 15, 2021, in advance of this filing.

15 **DURATION OF TIME REQUESTED**

16 Plaintiff requests that the briefing and documents he seeks to file under seal remain sealed
17 unless and until they become publicly-available or de-designated as "Confidential" under the
18 existing Protective Order or by any Order of this Court.

19 WHEREFORE, Plaintiff requests that this Court GRANT the Motion to File Under Seal
20 and enter the attached tendered Proposed Order.

1 DATED this 16th day of February, 2021.

2 TOUSLEY BRAIN STEPHENS PLLC

3 By: /s/ Kim D. Stephens

4 By: /s/ Rebecca L. Solomon

5 Rebecca L. Solomon, WSBA #51520

6 Kim D. Stephens, WSBA #11984

7 1700 Seventh Avenue, Suite 2200

8 Seattle, Washington 98101

9 Tel: 206.682.5600/Fax: 206.682.2992

10 Email: kstephens@tousley.com

11 rsolomon@tousley.com

12 John J. Schirger (*pro hac vice*)

13 jschirger@millerschirger.com

14 Matthew W. Lytle (*pro hac vice*)

15 mlytle@millerschirger.com

16 Joseph M. Feierabend (*pro hac vice*)

17 jfeierabend@millerschirger.com

18 MILLER SCHIRGER, LLC

19 4520 Main Street, Suite 1570

20 Kansas City, Missouri 64111

21 Tel: 816-561-6500

22 Fax: 816-561-6501

23 Norman E. Siegel (*pro hac vice*)

siegel@stuevesiegel.com

Ethan Lange (*pro hac vice*)

lange@stuevesiegel.com

Lindsay Todd Perkins (*pro hac vice*)

perkins@stuevesiegel.com

STUEVE SIEGEL HANSON LLP

460 Nichols Road, Suite 200

Kansas City, Missouri 64112

Tel: 816-714-7100

Fax: 816-714-7101

Stephen R. Basser (*pro hac vice*)

sbasser@barrack.com

BARRACK, RODOS & BACINE

One America Plaza

600 West Broadway, Suite 900

San Diego, CA 92101

Tel: 619-230-0800

Fax: 619-230-1874

1 Joseph Gentile
joseph@sarrafgentile.com
2 Ronen Sarraf
ronen@sarrafgentile.com
3 SARRAF GENTILE LLP
14 Bond Street #212
4 Great Neck, NY 11021
Tel: 516-699-8890
5 Fax: 516-699-8968

6 *Attorneys for Plaintiff, William T. Whitman*
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